



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Thomas Hubbard,
District Parole Supervisor (PS5491I),
State Parole Board

Examination Appeal

CSC Docket No. 2019-176

ISSUED: JANUARY 18, 2019 (ABR)

Thomas Hubbard appeals the multiple choice portion of the promotional examination for District Parole Supervisor (PS5491I), State Parole Board (Parole Board).

The subject examination was administered on June 7, 2018 and consisted of 50 multiple choice questions. The appellant’s appeal involves Questions 35, 67 and 68 on the subject examination.

Question 35 asks candidates to consider which of the following are steps to effective listening:

- I. Asking questions
- II. Concentrating
- III. Organizing the information in your own logical way
- IV. Taking notes on complex issues or requests

The keyed response is option d, “I, II, III and IV.” The appellant argues that item III is not a step for effective listening because “rearranging what is said in a seemingly logical way and trying to make sense of it in that way would be inappropriate,” as it “would take away from the importance of listening to what is truly being said.” In support, he submits that Gerald W. Garner in *Common Sense Police Supervision: Practical Tips for the First-Line Leader* (4th ed. 2008), states the following:

The supervisor must truly listen to what his subordinate is saying to him.

* * *

The supervisor can and should question and clarify in his own mind exactly what it is the speaker is saying to him.

* * *

The talented listener is patient, does not interrupt, does not start arguments and maintains a receptive interested attitude.

Id. at 170. Furthermore, he contends that “rearranging what is said” is contrary to the description of effective listening by Karen Hess, Christine Hess Orthmann and Shaun Ladue in *Management and Supervision in Law Enforcement*, (7th ed. 2016). Specifically, he submits that Hess, *et al.* identify preoccupation as a common problem that inhibits effective listening and indicate that “managers often ‘hear’ the sounds but do not ‘listen’ to the message; instead, they evaluate what they are hearing and concentrate on how they are going to respond.” Thus, the appellant maintains that an individual who rearranges what he or she is hearing is not effectively listening because he or she is risking becoming preoccupied and losing or missing critical information. With Question 35, the Commission notes that while the appellant cites Garner, *supra.*, to argue that listener organizing the information in his or her own logical way is not a step to effective listening, Garner’s statement that a “supervisor can and should . . . clarify in his own mind exactly what it is the speaker is saying to him” is equivalent to “organizing the information in your own logical way.” Further, it is noted that Bruce B. Tepper and Ida M. Halasz, *Supervision: A Handbook for Success* (1998), identifies “organizing the information in your own logical way” as one of the seven steps to effective listening. Accordingly, Question 35 is correct as keyed.

For Question 67, since the appellant selected the correct response, his appeal of this item is moot.

Question 68 asks what action should **not** be taken when interviewing an individual. The keyed response is option a, “[a]sk questions so that they can be answered in only yes-or-no fashion to avoid confusion.” The appellant argues that option c, to “phrase questions in a positive manner, so that the responses will be positive,” is the best answer. The appellant cites Nathan Gordon and William Fleisher, *Effective Interviewing & Interrogation Techniques* (1st ed. 2002), to show the need for an interviewer to avoid contaminating “the information being collected with excessive and/or directive input” in order to remain objective, determine facts, and evaluate the truthfulness and credibility of the interviewee. Towards that end,

the appellant argues that if an interviewer formulates question in a way that elicits positive or negative response, it may risk the interviewer's objectivity or at least the appearance of it. Therefore, the appellant argues that it is better for an interviewer to ask questions that can only be answered in a yes-or-no fashion than it is to have the interviewer phrase questions in a positive manner. However, the Commission observes that, contrary to the appellant's assertions, positive questions can be utilized without risking an investigator's objectivity or the appearance thereof. As noted, by Charles Swanson, Neil Chamelin, Leonard Territo and Robert Taylor in *Criminal Investigation* (7th ed. 2000), an investigator's role during the main part of an interview is to direct its flow in a nonsuggestive manner. Specifically:

[C]are should be taken not to lead the witness by asking questions that imply the answer. Questions should always be phrased positively so that the response is also positive. Questions such as "You don't really believe that, do you?" imply that anything other than a negative answer will be unacceptable. "Do you believe that?" allows them more freedom to respond.

Id. at 132-33. Thus, a positive question like "[d]o you believe that?" does not suggest an interviewer's opinion on a matter and it may encourage the interviewee to explain their statement in a way that asking it in the negative will not. Conducting an interview using questions that can *only* be answered "yes" or "no," is problematic because such a structure suggests that the interviewer is only interested in hearing the interviewee respond to questions in a yes-or-no fashion without detail. Thus, Question 68 is correct as keyed.

CONCLUSION

A thorough review of the appellant's submission and the materials reveals that the appellant's examination score is amply supported by the record and the appellant has failed to meet his burden of proof in this matter.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 16TH DAY OF JANUARY, 2019

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